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INFORMATION DISCLOSURE STATEMENT BY APPLICANT

(Use as many sheets as necessary)

Complete if Known

Application Number	10/716,076
Filing Date	11/18/2003
First Named Inventor	Touma
Art Unit	4786
Examiner Name	Marsh, Steven M
Attorney Docket Number	Touma

Sheet 1 of 1

U. S. PATENT DOCUMENTS

Examiner Initials*	Cite No. ¹	Document Number	Publication Date MM-DD-YYYY	Name of Patentee or Applicant of Cited Document	Pages, Columns, Lines, Where Relevant Passages or Relevant Figures Appear
		Number-Kind Code ² (if known)			
	1	US- 8,873,551	02/23/1999	Jones	
	2	US- 5,918,838	07/06/1999	Strandberg	
	3	US- 5,898,940	05/04/1999	Cameron	
	4	US- 5,924,659	07/20/1999	Babcock	
	5	US- D403,073	12/22/1998	Hrdlicka	
	6	US- D413,984	09/14/1999	Lindsey	
	7	US- 5,979,843	11/09/1999	Beck	
	8	US- D451,201S	11/27/2001	Maypa	
	9	US- 6,000,664	12/14/1999	Hood	
	10	US- D462,775S	09/10/2002	Minor	
	11	US- D454,957S	03/26/2002	Colby	
	12	US- 6,523,793B1	02/25/2003	Higgins	
	13	US- 6,484,989B1	11/26/2002	Connery	
	14	US- 6,457,604B1	10/01/2002	McNabb	
	15	US- 6,402,099B1	06/11/2002	Hughes	
	16	US- 6,398,088B1	06/04/2002	Burke	
	17	US- D417,778	12/21/1999	Karlin, III	
	18	US- 6,006,972	12/28/1999	O'Neill	
	19	US- 6,055,667	05/02/2000	Jimenez	

FOREIGN PATENT DOCUMENTS

Examiner Initials*	Cite No. ¹	Foreign Patent Document	Publication Date MM-DD-YYYY	Name of Patentee or Applicant of Cited Document	Pages, Columns, Lines, Where Relevant Passages Or Relevant Figures Appear	T ⁶
		Country Code ³ -Number ⁴ -Kind Code ⁵ (if known)				

Examiner
Signature

Date
Considered

*EXAMINER: Initial if reference considered, whether or not citation is in conformance with MPEP 609. Draw line through citation if not in conformance and not considered. Include copy of this form with next communication to applicant. ¹ Applicant's unique citation designation number (optional). ² See Kinds Codes of USPTO Patent Documents at www.uspto.gov or MPEP 901.04. ³ Enter Office that issued the document, by the two-letter code (WIPO Standard ST.3). ⁴ For Japanese patent documents, the indication of the year of the reign of the Emperor must precede the serial number of the patent document. ⁵ Kind of document by the appropriate symbols as indicated on the document under WIPO Standard ST.16 if possible. ⁶ Applicant is to place a check mark here if English language Translation is attached.

This collection of information is required by 37 CFR 1.97 and 1.98. The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.14. This collection is estimated to take 2 hours to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. SEND TO: Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.

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§ 1.97

CONSOLIDATED PATENT RULES

8, 2000 (effective date corrected, 65 FR 78958, Dec. 18, 2000]

INFORMATION DISCLOSURE STATEMENT

§ 1.97 Filing of information disclosure statement.

(a) In order for an applicant for a patent or for a reissue of a patent to have an information disclosure statement in compliance with § 1.98 considered by the Office during the pendency of the application, the information disclosure statement must satisfy one of paragraphs (b), (c), or (d) of this section.

(b) An information disclosure statement shall be considered by the Office if filed by the applicant within any one of the following time periods:

(1) Within three months of the filing date of a national application other than a continued prosecution application under § 1.53(d);

(2) Within three months of the date of entry of the national stage as set forth in § 1.491 in an international application;

(3) Before the mailing of a first Office action on the merits; or

(4) Before the mailing of a first Office action after the filing of a request for continued examination under § 1.114.

(c) An information disclosure statement shall be considered by the Office if filed after the period specified in paragraph (b) of this section, provided that the information disclosure statement is filed before the mailing date of any of a final action under § 1.113, a notice of allowance under § 1.311, or an action that otherwise closes prosecution in the application, and it is accompanied by one of:

(1) The statement specified in paragraph (e) of this section; or

(2) The fee set forth in § 1.17(p).

(d) An information disclosure statement shall be considered by the Office if filed by the applicant after the period specified in paragraph (c) of this section, provided that the information disclosure statement is filed on or before payment of the issue fee and is accompanied by:

(1) The statement specified in paragraph (e) of this section; and

(2) The fee set forth in § 1.17(p).

(e) A statement under this section must state either:

(1) That each item of information contained in the information disclosure statement was first cited in any communication from a foreign patent office in a counterpart foreign application not more than three months prior to the filing of the information disclosure statement; or

(2) That no item of information contained in the information disclosure statement was cited in a communication from a foreign patent office in a counterpart foreign application, and, to the knowledge of the person signing the certification after making reasonable inquiry, no item of information contained in the information disclosure statement was known to any individual designated in § 1.56(c) more than three months prior to the filing of the information disclosure statement.

(f) No extensions of time for filing an information disclosure statement are permitted under § 1.136. If a *bona fide* attempt is made to comply with § 1.98, but part of the required content is inadvertently omitted, additional time may be given to enable full compliance.

(g) An information disclosure statement filed in accordance with section shall not be construed as a representation that a search has been made.

(h) The filing of an information disclosure statement shall not be construed to be an admission that the information cited in the statement is, or is considered to be, material to patentability as defined in § 1.56(b).

(i) If an information disclosure statement does not comply with either this section or § 1.98, it will be placed in the file but will not be considered by the Office.

[48 FR 2712, Jan. 20, 1983, effective date Feb. 27, 1983; 57 FR 2021, Jan. 17, 1992, effective Mar. 16, 1992; para. (d) revised, 60 FR 20195, Apr. 25, 1995, effective June 8, 1995; paras. (a)-(d) revised, 61 FR 42790, Aug. 19, 1996, effective Sept. 23, 1996; paras. (c)-(e) revised, 62 FR 53131, Oct. 10, 1997, effective Dec. 1, 1997; para. (b) revised, 65 FR 14865, Mar. 20, 2000, effective May 29, 2000 (adopted as final, 65 FR 50092, Aug. 16, 2000); paras. (a) through (e) and (i) revised, 65 FR 54604, Sept. 8, 2000, effective Nov. 7, 2000]

§ 1.98 Content of information disclosure statement.

(a) Any information disclosure statement filed under § 1.97 shall include the items listed in paragraphs (a)(1), (a)(2) and (a)(3) of this section.

(1) A list of all patents, publications, applications, or other information submitted for consideration by the Office. U.S. patents and U.S. patent application publications must be listed in a section separately from citations of other documents. Each page of the list must include:

(i) The application number of the application in which the information disclosure statement is being submitted;

(ii) A column that provides a space, next to each document to be considered, for the examiner's initials; and

(iii) A heading that clearly indicates that the list is an information disclosure statement.

(2) A legible copy of:

(i) Each foreign patent;

(ii) Each publication or that portion which caused it to be listed, other than U.S. patents and U.S. patent application publications unless required by the Office;

(iii) For each cited pending unpublished U.S. application, the application specification including the claims, and any drawing of the application, or that portion of the application which caused it to be listed including any claims directed to that portion; and

(iv) All other information or that portion which caused it to be listed.

(3)(i) A concise explanation of the relevance, as it is presently understood by the individual designated in § 1.56(c) most knowledgeable about the content of the information, of each patent, publication, or other information listed that is not in the English language. The concise explanation may be either separate from applicant's specification or incorporated therein.

(ii) A copy of the translation if a written English-language translation of a non-English-language document, or portion thereof, is within the possession, custody, or control of, or is readily available to any individual designated in § 1.56(c).

(b)(1) Each U.S. patent listed in an information disclosure statement must be identified by inventor, patent number, and issue date.

(2) Each U.S. patent application publication listed in an information disclosure statement shall be identified by applicant, patent application publication number, and publication date.

(3) Each U.S. application listed in an information disclosure statement must be identified by the inventor, application number, and filing date.

(4) Each foreign patent or published foreign patent application listed in an information disclosure statement must be identified by the country or patent office which issued the patent or published the application, an appropriate document number, and the publication date indicated on the patent or published application.

(5) Each publication listed in an information disclosure statement must be identified by publisher, author (if any), title, relevant pages of the publication, date, and place of publication.

(c) When the disclosures of two or more patents or publications listed in an information disclosure statement are substantively cumulative, a copy of one of the patents or publications as specified in paragraph (a) of this section may be submitted without copies of the other patents or publications, provided that it is stated that these other patents or publications are cumulative.

(d) A copy of any patent, publication, pending U.S. application or other information, as specified in paragraph (a) of this section, listed in an information disclosure statement is required to be provided, even if the patent, publication, pending U.S. application or other information was previously submitted to, or cited by, the Office in an earlier application, unless:

(1) The earlier application is properly identified in the information disclosure statement and is relied on for an earlier effective filing date under 35 U.S.C. 120; and

(2) The information disclosure statement submitted in the earlier application complies with paragraphs (a) through (c) of this section.

[42 FR 5594, Jan. 28, 1977; para. (a) 48 FR 2712, Jan. 20, 1983, effective date Feb. 27, 1983; 57 FR 2021, Jan. 17, 1992, effective Mar. 16, 1992; revised, 65 FR 54604, Sept. 8, 2000, effective Nov. 7, 2000; paras. (a)(2) and (b) revised, 65 FR 57024, Sept. 20, 2000, effective Nov. 29, 2000; para. (e) added, 68 FR 38611, June 30, 2003, effective July 30, 2003; paras. (a) and (c) revised and para. (e) removed, 69 FR 56481, Sept. 21, 2004, effective Oct. 21, 2004]

§ 1.99 Third-party submission in published application.

(a) A submission by a member of the public of patents or publications relevant to a pending published application may be entered in the application file if the submission complies with the requirements of this section and the application is still pending when the submission and application file are brought before the examiner.

(b) A submission under this section must identify the application to which it is directed by application number and include:

- (1) The fee set forth in § 1.17(p);
- (2) A list of the patents or publications submitted for consideration by the Office, including the date of publication of each patent or publication;
- (3) A copy of each listed patent or publication in written form or at least the pertinent portions; and
- (4) An English language translation of all the necessary and pertinent parts of any non-English language patent or publication in written form relied upon.

(c) The submission under this section must be served upon the applicant in accordance with § 1.248.

(d) A submission under this section shall not include any explanation of the patents or publications, or any other information. The Office will not enter such explanation or information if included in a submission under this section. A submission under this section is also limited to ten total patents or publications.

(e) A submission under this section must be filed within two months from the date of publication of the application (§ 1.215(a)) or prior to the mailing of a notice of allowance (§ 1.311), whichever is earlier. Any submission under this section not filed within this period is permitted only when the patents or publications could not have been submitted to the Office earlier, and must also be accompanied by the processing fee set forth in § 1.17(i). A submission by a member of the public to a pending published application that does not comply with the requirements of this section will not be entered.

(f) A member of the public may include a self-addressed postcard with a submission to receive an acknowledgment by the Office that the submission has been received. A member of the public filing a

submission under this section will not receive any communications from the Office relating to the submission other than the return of a self-addressed postcard. In the absence of a request by the Office, an applicant has no duty to, and need not, reply to a submission under this section.

[48 FR 2712, Jan. 20, 1983; effective Feb. 27, 1983; removed and reserved, 57 FR 2021, Jan. 17, 1992, effective Mar. 16, 1992; added, 65 FR 57024, Sept. 20, 2000, effective Nov. 29, 2000; para. (f) corrected, 65 FR 66502, Nov. 6, 2000, effective Nov. 29, 2000; paras. (d) and (e) revised, 68 FR 38611, June 30, 2003, effective July 30, 2003]

EXAMINATION OF APPLICATIONS

§ 1.101 [Reserved]

[29 FR 13470, Sept. 30, 1964; para. (a), 48 FR 2712, Jan. 20, 1983, effective Feb. 27, 1983; para. (a), 50 FR 9381, Mar. 7, 1985, effective May 8, 1985; 52 FR 20046, May 28, 1987, effective July 1, 1987; para. (a) revised, 60 FR 20195, Apr. 25, 1995, effective June 8, 1995; removed and reserved, 62 FR 53131, Oct. 10, 1997, effective Dec. 1, 1997]

§ 1.102 Advancement of examination.

(a) Applications will not be advanced out of turn for examination or for further action except as provided by this part, or upon order of the Director to expedite the business of the Office, or upon filing of a request under paragraph (b) of this section or upon filing a petition under paragraphs (c) or (d) of this section with a showing which, in the opinion of the Director, will justify so advancing it.

(b) Applications wherein the inventions are deemed of peculiar importance to some branch of the public service and the head of some department of the Government requests immediate action for that reason, may be advanced for examination.

(c) A petition to make an application special may be filed without a fee if the basis for the petition is:

- (1) The applicant's age or health; or
- (2) That the invention will materially:
 - (i) Enhance the quality of the environment;
 - (ii) Contribute to the development or conservation of energy resources; or
 - (iii) Contribute to countering terrorism.